

This chapter provides information and instructions on procedures applicable to emergency projects funded by the Emergency Relief (ER) Program on federal-aid highways, and by the Federal Emergency Management Agency (FEMA) disaster assistance for projects not on federal-aid highways. Agencies should notify the Region Local Programs Engineer of damages to roadway systems caused by an emergency/disaster.

When an emergency exceeds the capability of state and local government, federal assistance can be requested from FHWA (ER and ERFO) and FEMA for the purposes noted below:

- The Federal Highway Administration (FHWA) under Title 23, U.S.C., Section 125 provides Emergency Relief (ER) funds for the restoration of damaged roads and bridges on federally functionally classified routes except for rural minor collectors and local roads and streets.
- FHWA's Western Federal Lands Highway Division Office directly handles ERFO funds (Emergency Relief for Federally Owned Lands) for repairs to federal roads maintained by federal agencies (Forest Service, Park Service, etc.) that were damaged by a disaster and determined to be eligible by the FHWA Administrator.
- Federal Emergency Management Agency (FEMA) provides federal funds under Public Law 93-288, as amended, "Robert T. Stafford Disaster Relief and Emergency Assistance Act, Nov. 1988," for restoration of damaged roads and bridges off the eligible federal aid classified routes.

Congress authorizes \$100 million annually nationwide for FHWA's ER program. The type of events that qualify for ER funding are:

- A widespread natural disaster. Examples are floods, hurricanes, severe storms, earthquakes, volcanic eruptions, landslides, or tidal waves.
- A catastrophic failure. This is defined as the sudden and complete failure of a major element or segment of roadway system that causes a disastrous impact to transportation services. The cause must be external to the facility, such as a barge hitting a bridge and causing it to collapse.

### References

- State of Washington Comprehensive Emergency Management Plan
- WSDOT *Disaster Plan* (M 54-11) — November 1994
- USDOT/FHWA *Emergency Relief Manual* — September 1998

### 33.1 Steps Following a Disaster

**Local Agency Process.** Outlined below are the initial steps a local agency follows immediately after a disaster.

- a. Initial Notification. A local Emergency Management Office immediately notifies the Washington State's Emergency Management Division (EMD) via the fastest means possible.
- b. Local Agency Proclamation. A proclamation is signed by elected official(s) in accordance with the State of Washington Comprehensive Emergency Management Plan. In accordance with RCW 38.52, the state and each political subdivision (e.g., local agency) have prepared a Comprehensive Emergency Plan which is put into effect when a disaster occurs. (Appendix 33.91)
- c. Recording Site Specific Costs. It is very important to document all expenses incurred by an agency in coping with the disaster or catastrophe. Records must be site specific, identified by route, M.P. (K.P.) and/or by cross street identifiers within the route. Cost records must have supporting documentation for labor, equipment, and materials. Failure to document costs as outlined above is a major reason for ineligibility findings.
- d. Additional Data Gathering. Agencies should gather evidence of the disaster such as newspaper clippings and photos. This information is helpful in the preparation of the field reports to request emergency relief funds.
- e. Requesting State Assistance. During and immediately after the disaster, the local Emergency Management Office conducts "damage assessments" to determine the magnitude, dollar value, effects, and impacts of the emergency/disaster.

It is very important to make timely and accurate damage reports to the EMD. These reports should describe the disaster and any local response. The "Incident Report" and "Disaster Analysis Report" forms provided by EMD and completed by the local agency (see Comprehensive Emergency Management Plan) are approved means of providing such a report. In addition, this notification should include the local agency's "Proclamation of Emergency."

- f. Proclamation by the Governor. From the information received EMD will inform the Governor's Office. If the situation warrants state assistance, EMD will coordinate the state response to supplement the efforts of local governments. The Governor will proclaim a State of Emergency when necessary. The Governor's proclamation is required to obtain assistance under both ER and FEMA. (Appendix 33.92)

From this point on, the processing of ER or FEMA projects are different, and the procedures are shown separately in the following sections.

## **33.2 FHWA's Emergency Relief Program Guidelines**

The Emergency Relief (ER) Program is administered by FHWA through WSDOT. To qualify for ER funds the damages to be corrected must have resulted from the declared disaster or catastrophic failure (as described above) and be for emergency opening, repair, or reconstruction of roadways and bridges on federally functionally classified routes except for rural minor collectors and local roads and streets. In addition, the total statewide damage for the entire event must exceed \$700,000, effective 6/1/2000. Individual sites must have \$5,000 or more in repair costs to be eligible for ER funds.

Eligible temporary emergency repairs and incidental permanent restoration work (Section 33.42), to minimize damage, protect facilities or restore essential traffic, accomplished within 180 calendar days after the first day of the actual disaster occurrence may be eligible for 100 percent ER funds. Repairs performed beyond 180 days after the actual occurrence of the disaster will be funded at the current program participation ratio for the federal aid route affected. Permanent restoration will be funded at the current program participation ratio for the federal aid route affected.

**Forest Highways.** The ER program also provides funds for other roads and trails on federal lands which have: serious damage due to the natural disaster or catastrophic failure; an emergency has been declared by the Governor; and concurrence by the FHWA Administrator (USDOT). However, repairs to roads maintained by federal agencies (Forest Service, Park Service, etc.) are handled directly by FHWA's, Federal Lands Highway Division Office in Vancouver, WA, and the responsible agency.

The Western Federal Lands Highway Division of FHWA has designated a system of Forest Highways. Some of the system is located within National Forest lands, some provide access to such lands, some are coincidental with State Routes and some with local agency routes. Damages that occur on this designated system are eligible for 100% federal funding and may be administered through either the ER or ERFO programs. A map of the system is at the end of the chapter.

**.21 Application for Federal Assistance.** WSDOT and local agencies are empowered to immediately begin emergency repairs to restore essential traffic service and to prevent further damage to the roadways. Properly documented costs will later be reimbursed if FHWA determines the disaster ER eligible. The determination of eligibility/non-eligibility does not usually occur until approximately 60 days after the incident period. However, the following steps should be ongoing during this interval.

- a. Letter of Intent. WSDOT prepares and transmits to FHWA a "letter of intent" to apply for ER program funds per the requirements. The letter of intent includes: an estimate of the damage on WSDOT eligible roadways; an estimate of damage on local agency's eligible roadways; and notifies FHWA that WSDOT intends to request ER funds. This request usually follows the Governor's proclamation.
- b. FHWA Division Acknowledgment. The FHWA Division response to WSDOT directs WSDOT and local agencies to proceed with emergency repairs: to restore essential travel; to protect remaining facilities; to reduce the extent of damage; to begin preliminary engineering consisting of surveys, design, and preparation of construction plans; to perform incidental permanent restoration work which is required as part of the emergency operation; and to use local forces, contracts and/or equipment-rental contracts as necessary to perform the work.
- c. Approval of ER Funds. Upon receiving the recommendation of the FHWA Division Office that the event qualifies for ER funds, the FHWA Administrator acts on WSDOT's request and informs FHWA Regional and Division Offices of the approval of ER funds and sends a letter to the Governor. WSDOT Highways and Local Programs is informed accordingly and notifies the affected local agencies.

Eligibility of emergency relief work for federal funding is contingent upon concurrence by the FHWA Administrator.

**.22 FHWA Approval of Projects.** From the time the disaster/emergency occurs local agency forces are out working to protect their transportation investments. The local agency will contact the Region Local Programs Engineer and describe the damage they are incurring with an estimated dollar figure which is included with WSDOT's submittal to FHWA.

If the disaster damage is eligible for ER funds, detailed Damage Inspection Reports (DIR) are prepared to determine the amount and scope of reimbursement for temporary emergency repairs, incidental permanent restoration and permanent restoration work. To expedite the reimbursement process and repair the damage to the agency's transportation system, the Region Local Programs Engineer contacts the agency and coordinates an on-site visit with a FHWA representative, at a mutually agreed upon time. If the damage to an agency is wide spread and the agency has good documentation (including plenty of photographs), FHWA may approve the sites based on the project packages without actually viewing every site. FHWA has also concluded they may select a portion of the impacted sites to actually visit for verification of the damage detailed in the DIR.

The agency should have a package of all relevant information ready for review by Highways and Local Programs and FHWA at the time of the on-site visit. In many cases, the emergency work will already have been completed. Accurate and detailed records are required to verify the expenditures. The package is to include:

- a. Damage Inspection Report (DIR). The DIR (see Forms) can either be prepared at the time of the on-site visit or the agency may fill out the information pertaining to the site prior to the visit for review and approval by Highways and Local Programs and FHWA. The DIR should include all pertinent information pertaining to the site's damage and a breakdown of damage estimates or actual costs (as applicable) of the work identified. Completion of the DIR is a joint effort by FHWA, WSDOT Highways and Local Programs, and local agency personnel.

The approved DIR serves as the basic justification and cost document. Each agency receives a copy of the DIR. Based on detailed DIRs received, WSDOT Highways and Local Programs will prepare and forward a statewide ER program of local agency projects to FHWA for approval. Following program approval by FHWA, WSDOT Highways and Local Programs will request any additional information that is required to advance a specific project to the construction stage.

It is important that the DIR document the scope of the approved repairs, but it is not critical that the cost estimate be precise at the time of the DIR (the cost estimate can be refined later). It is important that the damage inspections be completed as soon after the event as possible, even if final cost data is not yet available.

- b. Maps. A vicinity map showing the location of the damage (can be agency-wide or site by site).
- c. Visual Aids. Photographs, newspaper articles, and related documents (i.e., sketches, video tapes) are necessary to show the actual damage.
- d. Records. Agency records **must** be site-specific [identified by M.P. (K.P.), route, or cross street identifiers] for each eligible federal aid route. Costs **must** be supported by labor, equipment and material records or contract documents. This is necessary to obtain full reimbursement. (These records are critical for the long-term but need not be fully complete at the time of the DIR since the DIRs cost estimate can be just that — an estimate.)
- e. Additional Data. This will include any items FHWA requests.

Because a significant amount of time may have elapsed since the disaster, the local agency may have to fund restoration costs while waiting for reimbursement. In many

cases, the emergency work will already have been completed. Therefore, accurate and detailed records are required to verify the expenditures.

### 33.3 Reimbursable Expenses

**.31 Eligible Costs.** The following is the basic information on FHWA policy regarding emergency relief procedures for reimbursement under the ER Program. This is also outlined in the Emergency Relief Manual (USDOT/FHWA, September 1998).

Only certain items of repair or reconstruction of roads, streets, and bridges are eligible under the emergency relief program. The federal government will participate in costs when they are properly supported and documented and when such costs are directly attributable and properly allocable to ER projects. For a site to qualify it must: exceed heavy maintenance; not be a pre-existing condition; and not already be programmed for federal-aid funding. For the purposes of the ER Program, heavy maintenance is defined as repair work less than \$5,000 per site. Work is considered already programmed if construction funding for it is included in the State Transportation Improvement Program (STIP).

The emergency conditions most frequently experienced in Washington State are those resulting from damage to highways caused by storms which create flooding conditions. The processing of claims for damage by hurricanes, tidal waves, earthquakes, severe storms, landslides, volcanic eruptions, and other catastrophes will normally follow the criteria established for flood disasters. ER funds may participate in the emergency repair or reconstruction of: pavements or other surface courses; shoulders; embankments; cut slopes; natural and constructed drainage channels, including riprap, cribbing, or other bank control features; guardrail; bridges; retaining walls; signs and traffic control devices; culverts; bike and pedestrian paths, and fencing.

The ER program will only fund those activities: beyond heavy maintenance; required to restore essential travel; to prevent additional damage to the roadway; and work required to restore the roadway to its pre-disaster condition. Types of these eligible costs are as follows:

- a. Debris Removal. This includes clearing debris from the traveled way, an adjacent pedestrian/bike facility, the clear zone and in some cases from the drainage systems associated with damaged project sites.

This does not include the clearing of trees and other debris from all areas within the right of way. If debris is not obstructing traffic, an adjacent pedestrian/bike facility, in safety clear zones, or a drainage facility, removal of that debris would **not** be eligible for ER funds.

- b. **Traffic Control.** For ER eligible roadways traffic control devices such as barrels, barricades and signs; the establishment of detour routes; and enforcement of detours and road closures by law enforcement personnel are eligible for funding. Reimbursement for traffic control can be handled on an area-wide basis with sufficient documentation of locations and type of work. ER reimburses the local agency and the state enforcement agencies for regular and overtime rates on ER eligible routes for performing disaster related traffic control activities. Documentation of hours, routes, etc., is required for reimbursement.
- c. **Landscaping.** Landscaping and functional planting are eligible when associated with major damage restoration through permanent repair methods.
- d. **Active Construction Contracts.** Damage due to the ER event within the limits of an active construction contract **may** also be eligible for ER funds. Damage must be due to the event and clearly not the responsibility of the contractor (e.g., not due to inadequate protection of disturbed areas). The work must be done by change order (Section 52.5). Also, if adequate precautions were made to protect a nearby project because of the event, that work may be eligible.
- e. **Detour Routes.** Establishment or construction of detours is eligible for ER funding. Routine maintenance of detours is not eligible, but repair of detour routes whether or not they are federal-aid eligible, is eligible for ER funding.
- f. **Sites Damaged by Two Separate Storms.** When a site suffers damage in a second eligible ER event prior to completion of the permanent restoration, that work can be funded as part of the second storm. Temporary work completed before the second storm should still be charged to the first storm. In this case all work must be coordinated with the Region Local Programs Engineer and FHWA.
- g. **Administrative Expenses.** Administrative expenses as listed below are also eligible for reimbursement.
  - (1) **Regular and Extra Employees.** Regular salaries, overtime salaries and wages of all the regular and extra employees directly engaged in work on ER projects are eligible for reimbursement. Time-keeping procedures should provide for allocating employees' time to projects and/or other activities each day on an hourly basis. The timekeeping document, such as a time slip, time and attendance report, or time book, is the source document which must be available for examination by audit personnel to support direct labor costs claimed on any ER project. The document should be signed by a responsible employee having knowledge that the time distribution is accurately reported.
  - (2) **Payroll Additives.** Usually referred to as a labor surcharge, a set percentage over and above the total direct labor costs charged to a project is eligible for participation. This surcharge is to cover costs of various types of leave allowances, industrial accident insurance coverage and other employee benefits. The allowable percentage rates will consist of the agency's calculated rates which normally vary from year to year. Therefore, the records used in developing percentage rates should be preserved under suitable control conditions to assure availability for examination when requested. The acceptable percentage rate may be applied only to direct labor costs.
- h. **Engineering and Right-of-Way.** Only that preliminary engineering, right-of way, and construction engineering directly attributable to repair of eligible damages are eligible for ER reimbursement. Administrative costs are not eligible.
- i. **Traffic Damage.** Generally damages of roadway surfaces due to traffic damage is not eligible for ER funds, but may be for surface damage repair (1) on any public road when it is caused by vehicles making repairs to federal eligible roadways, (2) on any public road officially designated a detour route around a damaged federal eligible roadway, and (3) on any federal eligible roadway when damage is caused by vehicles responding to a disaster.
- j. **Overlays.** Where entire sections of roadway are damaged and need to be constructed, new surfacing is eligible. Roadways submerged during flooding, but suffering no significant damage, are not eligible.
- k. **Raising Grades.** For traditional flooding, temporary work, fill material and minimum riprap to raise roadway grades to maintain essential traffic service during flooding is eligible. Roadways temporarily raised to maintain essential traffic service and that suffer no significant damage as a result of the flood and work to permanently provide a higher grade (recompact fill and provide permanent surfacing) are not eligible. Contact your Region Local Programs Engineer to have them consult with FHWA on raising grades in basin flooding situations.
- l. **Slides.** The removal of rock and mud slides is eligible. To be eligible for correction to provide a safe roadway, such a slide must be associated with the overall natural disaster or by itself qualify as a natural disaster. Projects to stabilize the slide area to protect the roadway or to relocate the roadway are eligible when justified as a betterment.
- m. **Traffic Control Devices.** The cost of repair and replacement of traffic control devices (traffic signal, traffic control signs) is eligible only if such damage exceeds heavy maintenance.

- n. **Roadside Appurtenances.** The cost of repair and replacement of roadside appurtenances (guardrail, bridge rails, impact attenuators, right-of way fences, etc.) is eligible if such damage exceeds heavy maintenance.
- o. **NEPA Process.** An ER repair project may need to incorporate added features to mitigate impacts of associated items such as wetlands, noise, endangered species, etc. A general rule of thumb to follow: if the added feature is related to a betterment that is eligible for ER participation, then the mitigation feature is probably eligible for ER funding; if the betterment is not justified for ER funding, any added feature related to the betterment is probably not eligible for ER funding. Contact your Regional Highways and Local Programs Engineer to have them consult with FHWA on your specific situation.
- p. **Outside of the Roadway Right-of-Way.** Generally, damage repair activities outside the roadway right-of way is not eligible for ER funding. The exception to this would be work (riprap, bank protection, etc.) associated with a stream channel adjacent to a roadway when the work is directly related to protection of the roadway.
- q. **Supplies and Materials.** Engineering and general office supplies of an expendable nature, charged from stock or purchased for a particular project, and properly identified on the stock-issue slip or vendor's invoice with the project charged, are eligible for ER fund participation.
- r. **Equipment.** The use of applicant-owned equipment or equipment owned by, and rented from, another public entity, or equipment rented from commercial sources (provided rental costs are reasonable) which is necessary for the work authorized under an ER project will be eligible for participation.

**.32 Ineligible Costs.** The ER Program is intended to correct disaster damage to highways. The ER program does not provide emergency transportation services (e.g., ambulances, helicopters, etc.), compensation for material, equipment, or economic losses (e.g., stockpiled material, maintenance equipment, lost revenue, etc.). Also, non-federal eligible roads, bridges and trails are not eligible for ER funds but can be submitted to FEMA for reimbursement. Below are descriptions of work that is ineligible for reimbursement:

- a. **Heavy Maintenance.** When a disaster has caused damage requiring heavy maintenance or work frequently performed by the applicant's maintenance crews, repairs are usually not eligible. Heavy maintenance is work which is usually performed by agency's in repairing damage normally expected from seasonal and occasionally unusual natural conditions or occurrences. It includes work at a site, required as a direct result of a disaster, that can reasonably be accommodated by an agency's maintenance, emergency or contingency program. For the purposes of the ER Program, heavy maintenance is defined as repair work less than \$5,000 per site.
- b. **Snow Removal.** Snow removal is not eligible for ER funds.
- c. **Debris Removal.** Debris that is not obstructing traffic, an adjacent pedestrian/bike facility, safety clear zones or a drainage facility, is not eligible for ER funds.
- d. **Prior Scheduled Work.** Work already scheduled for repairing or replacing deficient facilities with federal aid funds, which are damaged during a disaster will **not** be eligible for ER funds. Work is considered already scheduled if construction funding for it is included in the STIP. This work should be funded as originally intended.
- e. **Traffic Damage.** Repair of roadway surface damage caused by traffic, even if the roadway was inundated or the subgrade saturated, is not eligible, except as noted in Section 33.31-i.
- f. **Frost Heaving.** Damage to roadway subbase and base materials due to inundation or because of freezing and resultant frost heaves, even if the roadbed has been saturated by flood waters, is not eligible for repair using ER funds.
- g. **Applicant-Owned Material.** Replenishment of destroyed or damaged stockpiles of materials for both maintenance and construction that have not been incorporated into the roadway is not eligible for replacement under the ER program. Repair or replacement of damaged facilities such as maintenance sheds or equipment is not eligible for ER funds.
- h. **Erosion Damage.** Minor erosion damage due primarily or wholly to rainfall and resulting from surface saturation of slopes and embankments, rather than flood waters, is considered heavy maintenance and is not eligible.
- i. **Mitigation/Preventative Work Prior to Disaster.** Preventative work to avoid damage to a highway facility in anticipation of a disaster is not eligible for ER funding (e.g., work to prevent scour at a bridge site in anticipation of high rainfall and potential flooding).
- j. **Catastrophic Failure from Internal Cause.** If the catastrophic failure is due to an internal cause, such as gradual and progressive deterioration or lack of proper maintenance, it is not eligible for ER funding.

## 33.4 Types of Emergency Relief Work

**.41 Temporary Emergency Repairs.** The intent of temporary operations, including emergency repairs, is to restore essential traffic which cannot wait for a finding of eligibility and programming of a project. Emergency repair work should be accomplished in a manner which will reduce additional work required for permanent repairs. Temporary emergency repair work, accomplished within the first 180 days after the occurrence of the disaster, may be eligible for 100 percent federal aid.

Local agencies will need to coordinate with resource agencies for accelerated permit requirements. Local agencies will need to meet all local and state requirements.

The use of ER funds for temporary repairs to roadways will normally be limited to the amount necessary to bring the washed-out fills and slip-outs back to grade with a gravel surface. However, in most cases these emergency repairs to roadways will not be constructed to true line and grade. They will usually follow the terrain and be constructed in the easiest and fastest manner. The repair to the road, nevertheless, should be good enough so traffic can travel over it safely at a speed reasonable for the site conditions. Where routes handle heavy traffic, an appropriate type of bituminous surface as a temporary repair will be eligible for short sections of roadway.

**.42 Incidental Permanent Restoration.** FHWA's concurrence of the need for emergency work does not authorize the agency to proceed with permanent restoration work on damaged roadways. However, if the incidental permanent restoration is more economical or practical to perform as an associated part of the emergency operation it may be eligible. This incidental permanent restoration work can be performed with the emergency work provided it is properly documented and authorized in the DIR. If such work has been accomplished prior to the site damage review, retroactive approval may be given when circumstances warrant.

There may be situations in which immediate completion of the permanent work is the most economical and feasible way to quickly restore essential traffic. An example would be a bridge and approaches being washed out, construction of a detour being both costly and time consuming, and the agency having precast concrete girders readily available that could be used at the site. In such a case immediate construction of the permanent structure and approaches could be accomplished at the discretion of the local agency and approval by FHWA would be considered incidental permanent restoration and would be documented and reimbursed in the same way as the emergency repairs.

The placement of the final surfacing is normally considered permanent repair. If done as emergency work, such paving must have FHWA concurrence, on the DIR or subsequent to the DIR, to be eligible for federal participation. FHWA

will consider traffic characteristics, remoteness of the site, traffic control requirements and socioeconomic factors before approval.

**.43 Permanent Restoration.** Permanent restoration work will **not** be eligible if performed prior to program approval and authorization by FHWA, unless it is determined more economical or practical to perform such work as an associated part of the emergency repairs. **Documentation of this determination is essential.**

Permanent restoration is funded at the normal match rate for the route **regardless of when the work is done.**

Permanent restoration shall be administered using normal Federal-aid procedures that include written authorization, NEPA clearance, design approval, permits, right of way certification, PS&E, advertisement period, etc. Permanent restoration work must begin within 2 years after the event.

Permanent restoration may involve one or more of the following categories of work:

- a. **Restoration-in-Kind.** The ER program provides for repair and restoration of highway facilities to predisaster conditions. Restoration-in-kind is the expected predominant type of repair to be accomplished with ER funds. Any additional features or changes in character from that of the predisaster facility are generally not eligible for ER funding unless they can be justified because of construction, economy, prevention of future recurring damage or technical feasibility.
- b. **Replacement Facilities.** Where a facility has been damaged to the extent that restoration to its predisaster condition is not technically or economically feasible, a replacement facility is appropriate. Replacement facilities should be constructed to current design standards. ER participation in a replacement roadway will be limited to the costs of current design standards of comparable capacity (i.e., number of lanes) and character (i.e., surfacing type, access control, rural/urban section). Replacement of a bridge will be the cost of a new bridge to current design standards for the type and volume of traffic it will carry during its design life.  
  
ER participation may be prorated at the costs of a comparable facility when the proposed replacement project exceeds the capacity and character of the destroyed facility.
- c. **Betterments.** Betterments are defined as (1) added protective features, such as the rebuilding of roadways at a higher elevation, or the lengthening of bridges, or (2) changes which modify the function or character of the facility from its pre-disaster condition, such as additional lanes, or added access control. Betterments are generally not eligible for ER funding unless justified on the basis of economy, suitability and

engineering feasibility and reasonable assurance of preventing future similar damage. Betterments should be obvious and quickly justified without extensive public hearing, environmental, historical, right-of-way or other encumbrances. The justification must weigh the costs of the betterment against the probability of future recurring eligible damage and repair costs.

Upgrading that results from construction of replacement facilities to current standards as defined above is not considered a betterment requiring further justification. However, with respect to roadways, increases in capacity or a change in character of the facility would be considered betterments and are not justified for ER participation.

Betterments which have been approved in the past with proper justification include:

- Installation of riprap
- Relocation
- Increased waterway opening
- Slope/Bank stabilization
- Slide stabilization
- Dike construction
- Raise grade of roadway

Betterments resulting from environmental or permit requirements beyond the control of the agency are eligible for ER funds, if these betterments are normally required when the agency makes repairs of a similar nature in its own work.

Minor relocations and alignment shifts are frequently advisable and are generally eligible for ER participation. However, any design changes made to avoid damage which could be expected to occur infrequently is questionable. Added features of appropriate protection, such as slope stabilization, slope protection and slide prevention measures wherever practicable, must have proper support. Slide stabilization work has been declared ineligible in problem areas where slides recur regularly. The cost of monitoring slide stabilization measures after completion of the initial stabilization is not eligible. ER participation in the initial construction does not create a continuing ER responsibility for future additional work.

Betterments which are eligible for reimbursement will be addressed, agreed to and documented on the DIR or approved separately by WSDOT and FHWA in response to a local agency request justifying the proposed betterment.

- d. Replacement-in-Kind. Where extensive damage has occurred, ER funds may be used for replacement-in-kind as the proper solution but with current standard

safety features. Where relocation is necessary, each case is considered carefully to determine what part of the relocation is justified for construction with ER funds.

- e. Wayside Areas. Wayside areas include rest areas and truck weighing stations. Access and parking facilities at a wayside area can be cleared and protected as part of an ER project. Local agency and WSDOT maintenance facilities are not included.
- f. Replacement of Culverts. Upgrading culverts to current standards must be specifically related to eligible disaster damage repair. Damaged culverts are eligible for repair in kind. Destroyed culverts are eligible for replacement to current standards. Area-wide upgrading of deficient culverts on an area or route basis is not eligible.
- g. Deficient Bridges. This includes bridges unsafe in structural condition only and does not consider waterway opening, functional obsolescence or serviceability. A structurally deficient bridge which was not under construction or scheduled for replacement with other federal funds may be eligible. ER funds do not replace other federal funds. The following represent two common situations:

- (1) Bridge is damaged and is repairable. ER funds may participate in:

- Reasonable emergency repair to restore travel.
- Permanent repair of disaster damage if bridge will be structurally safe upon completion of disaster damage repair (repairs correct structural deficiency).
- Permanent repair of disaster damage if other funds are used to simultaneously correct the structural deficiencies (repair of disaster damage will not correct structural deficiency).
- No permanent repair if bridge is scheduled for replacement.

- (2) Bridge is destroyed or repair is not feasible. ER funds may participate in:

- Reasonable emergency repairs to restore traffic.
- New comparable replacement structure if bridge was not scheduled for replacement.
- No permanent repair if bridge is scheduled for replacement.

- h. Bridge Betterments. Two common bridge betterment situations are:

- (1) Bridge is destroyed. A new comparable replacement structure would be eligible. Betterments are generally not a consideration except:

- Extensive relocation of a replacement bridge is an ineligible betterment and ER participation will normally be limited to the cost of the structure and a reasonable approach length.
- Replacement of a current non navigable structure or movable bridge with a high level navigable structure is beyond the intent of a comparable facility and is an ineligible betterment.

- (2) Bridge is seriously damaged but repair is feasible. Repair-in-kind is eligible for ER funds.

Added protection features such as riprap, spur dikes or additional channel work if justified as a betterment would be eligible (i.e., there is reasonable assurance that similar future damage would be prevented and the cost of the betterment does not unreasonably exceed anticipated future ER costs).

Control features for stream channels outside the agency's right-of-way are generally not eligible. Work involved in channel changes, riprap, bank protection, clearance of debris and wreckage from the channels and stream beds, and other associated permanent work is not eligible. However, if the agency can establish it has jurisdiction and responsibility for the maintenance and proper operation of this section of the stream the work may be eligible.

Normally, projects associated with channel work (riprap, bank protection, etc.) that require right-of-way purchases and/or easements outside the right-of-way are not eligible. The fact the agency responsible for channel maintenance does not have funds to finance the repair and protection work, is not an acceptable reason for ER fund assistance. In situations involving requests for participation in erosion control and bank protection outside the agency right-of-way, the following items must be verified by the agency to obtain eligibility:

- The work is directly related to protection of the highway facility.
- The work is not eligible for funds from another agency.
- No other agency has the responsibility for such work.
- The applicant agrees to accept the future maintenance of all work performed.

When work of this type is proposed, the project documents should include a letter from the local agency covering all four of the above features including acceptance of the responsibility for maintenance. Other supporting data should include copies of correspondence with the Corps of Engineers or other appropriate agency to verify that no other eligibility or responsibility exists.

- Increased bridge width or other geometric improvements and correction of non disaster-related structural or surfacing improvements such as deteriorated pilings or decks are not eligible.

- i. Protective Work. When permanent and emergency repairs cost considerably less than proposed protective measures such as riprap, eligibility of protective measures is questionable. For example, if repairs consisting of replacement-in-kind cost only \$3,500 and the estimated cost to provide sufficient protection to prevent damage under similar unusual conditions is \$9,000, participation beyond that necessary for replacement-in-kind would not be economically justified.
- j. "Convenient" Damage. The elimination of a recurring annual maintenance problem based on the occurrence of a disaster is questionable. For instance, an applicant proposes to replace a damaged triple box culvert and roadway fill with a bridge. This is a betterment to alleviate an annual maintenance problem which was accelerated by a disaster. ER participation in the construction cost of a bridge is limited to the amount necessary to repair the triple box culvert.
- k. Rock and Mud Slides. The removal of rock and mud slides is eligible unless determined to be a pre-existing condition. Such a slide, unless justified on its own as a catastrophic failure, must be associated with the overall natural disaster and must have occurred during the event period as determined by FHWA and/or FEMA.

When an old slide has been activated during a natural disaster, its correction to provide a safe roadway is eligible. Should the agency propose to relocate a road instead of correcting the old slide, the cost of the relocation to predisaster capacity and character may be eligible if justified as a betterment.

Slide stabilization is also a betterment. ER participation must be based on detailed analysis of the slide and reasonable assurance of preventing similar future damage, showing stabilization costs do not unreasonably exceed anticipated ER costs. Such analysis must include road relocation, do-nothing alternatives and consideration of previous testing recommendations for the area.



1. **Plugged Culverts.** Cleaning out plugged culverts is an eligible activity as long as it is considered beyond heavy maintenance and is associated with other eligible damage. Replacement of plugged culverts should be considered eligible only when justified as a betterment or when cleaning is not cost effective.

## **33.5 Contracts**

The onslaught of a disaster requires quick reaction by local agencies to protect the traveling public and the remaining facility. The initial actions taken by local agency personnel are usually reimbursable if they meet the ER program requirements. The initial repairs may be accomplished using local agency forces, solicited contracts and/or sole source contracts, as described below. These are all allowable during the initial impact to agencies. When agencies use these methods, documentation of their procedures and approval by WSDOT and FHWA are required for reimbursement.

Restoration work shall be undertaken by competitively bid construction contracts (Chapter 52). All federal requirements (i.e., Davis-Bacon, Buy America, Federal Wage Rates, DBE, etc.) must be included in the same manner as a typical non-disaster federal aid project.

- .51 Local Agency Forces.** Due to the emergency character of the work, state and local agency forces (Chapter 61) and/or negotiated equipment rental contracts with owner/operators may be used in handling a considerable portion of the emergency repairs. An owner/operator is defined as someone who owns and operates their own equipment, with no other employees on a payroll, at a negotiated hourly operated rate. Local agencies may supplement their own forces by using the Public Works Emergency Response Mutual Aid Agreement or other interlocal agreements as appropriate. The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster.

A formal finding for local agency forces work for temporary emergency repairs is not required. WSDOT and FHWA approval is required for reimbursement of local agency forces work on **permanent** restoration work.

- .52 Solicited Contract.** This type of contract may be warranted due to the emergency character of the work. A minimum of three contractors/material suppliers are contacted and asked to submit bids on specific units of work. A source for these contractors would be the local agency's small works roster. These contracts shall be based on force account procedures (Standard Specifications 1-09.6), unit bid items or a combination of the two. These contracts will have a set of plans and specifications which may be abbreviated (Section 33.63).

The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster or as noted on the DIR. FHWA and WSDOT approval is required to use this method of contracting. Unless emergency

circumstances make it impossible or unfeasible to do so, provisions of 23 U.S.C. 112(c) which require a sworn statement of noncollusion apply.

Likewise, a written summary must be prepared showing how the solicitation was done, who was contacted, and the responses by the contractors/material suppliers.

- .53 Sole Source Contract.** Approval by WSDOT and FHWA is required to use this type of contract. The approval may be given verbally or at the time of the on-site review (DIR). The intent is to restore essential traffic and stabilize any hazardous conditions caused by a disaster or as noted on the damage inspection report. These contracts shall be based on force account procedures (Standard Specifications 1-09.6), unit bid items or a combination of the two. These contracts will have a set of plans and specifications which may be abbreviated (Section 33.63).

The type of work allowed for using a sole source contract include:

- Only one contractor in the area to perform the work;
- A contractor on-site under a current contract; or
- The work is defined as specialty work.

Documentation is required justifying the use of a sole source contract.

## **33.6 Additional Project Requirements**

- .61 Design Standards.** Reconstruction of damaged roadway and bridge facilities must be to adequate standards, including appropriate safety features. Reconstruction of extensively damaged facilities, including betterment projects when adequately justified, should be to the current design standards. Replacement of roadway facilities other than bridges is limited to the existing number of lanes and surface type. Bridges may be replaced with a facility which meets current geometric and construction standards required for the type and traffic volume which such facility will carry over its design life.

- .62 Environmental Impact Assessment.** A categorical exclusion under 23 CFR 771.115(9), (13), and (14) is generally applicable to ER projects. This would apply to repair the damaged roadway to predisaster conditions and requires the concurrence of FHWA as noted on the DIR. If the finding cannot be made, the project is subject to an environmental assessment under provisions of 23 CFR 771.

Emergency repairs during or immediately after a natural disaster are generally classified as categorical exclusions as are general permanent repairs if they are replacements in kind (23 CFR 771 and 40 CFR 1508.4).

Extensive environmental processing could jeopardize an otherwise reasonable project by removing it from an eligible category as described above. In other words, if a situation persists with no correction for an extended period

of time, it may be unreasonable to continue to classify the project as a disaster-related emergency. The project would then need to be funded as a normal federal aid project.

- .63 Abbreviated Plans.** The FHWA Division Administrator may approve the use of abbreviated plans provided that they provide essential information necessary to describe the work to be accomplished and determine the reasonableness of unit prices for contract or force account work.

### **33.7 Funding**

WSDOT Highways and Local Programs will process all the required data and submit it to FHWA for fund authorization. A standard funds request package should include:

- Project check list with supporting data as appropriate. (Chapter 21)
- Pictures of the affected site (before and after).
- A **signed** copy of the DIR.

When submitting projects for funding, multiple sites on the same federal route or area within a local agency's jurisdiction may be grouped together under one Local Agency Agreement and Project Prospectus provided individual site information is included.

Project fund requests which exceed the original DIR must have a detailed explanation of the additional work required to complete the work. If the work done is outside the scope of the DIR, concurrence by FHWA will need to be coordinated through the Regional Highways and Local Programs Engineer prior to fund authorization. Any work to be done as the finding of a geotechnical report needs to be pre-approved by FHWA through the Regional Highways and Local Programs Engineer.

All projects which involve a contract must follow the guidelines outlined in Chapter 46, of this manual. All further action, including processing, billing and payment will be in accordance with Chapter 23 of this manual.

Final vouchers, inspection, audit and project closure are accomplished in accordance with Chapter 53 of this manual.

### **33.8 FEMA Program Guidelines**

Federal Emergency Management Agency (FEMA) provides funding for restoration of damaged roads and bridges not eligible for ER, individual assistance and public assistance. Off system roads, bridges and trails (no matter where the initial funding came from) are eligible for FEMA reimbursement. Although neither FHWA nor WSDOT is involved in disaster relief project funding for non-federal aid roads/streets, this section has been included for informational purposes. For additional information call 1-800-562-6108.

Federal share payable is 75% of the eligible costs for damage described under FEMA's emergency activities. Overtime only, on non ER eligible routes, for debris removal, emergency protective measures and traffic control is also reimbursable at 75% by FEMA.

The FEMA program provides federal reimbursement of eligible costs to repair, restore, reconstruct or replace damaged roadway facilities not eligible for ER. This includes emergency opening and permanent restoration.

Before funds are made available, the Governor must proclaim a state of emergency and request assistance from the President for assistance. The President must declare either an emergency or a major disaster.

The Disaster Recovery Manager of FEMA and Washington State's Governor's Authorized Representative are responsible for determining program eligibility based on criteria established by the federal government. The Governor's Representative is responsible for the program's administration.

#### **Applying for Federal Assistance.**

- a. **Governor's Request for Federal Assistance.** Based on the preliminary damage assessments, the EMD prepares the Governor's request letters, for the Governor's signature, which are submitted through FEMA to the President of the United States.
- b. **Presidential Declaration.** If the President determines that the situation warrants federal assistance, the President declares either an emergency or major disaster and invokes the applicable sections of the FEMA regulations.
- c. **Federal/State Agreement.** After the President makes the declaration of emergency, the Governor and the FEMA Administrator sign a federal/state agreement for federal, state and local participation.

#### **Actions After Federal Funding Approval.**

- a. **Preparation of Damage Survey Reports (DSR).** EMD and FEMA jointly establish disaster field offices to coordinate federal and state response.
- b. **Applicant Briefings — Eligibility Determination.** The Governor's Representative and Federal Disaster Recovery Manager will conduct applicant briefings. These briefings are for local elected officials, program administrators and accountants/bookkeepers. Local representatives are told what kind of assistance they will receive and the process to obtain the assistance. WSDOT Highways and Local Programs will provide a representative at the briefing to discuss the ER program.
- c. **Determination Review.** In most cases, if not all, the Governor's Representative and the Disaster Recovery Manager will review and determine eligibility of the DSRs in the disaster field office. Those not determined in the disaster field office will be followed up by both the Governor's Representative and the Disaster Recovery Manager at a later date.
- d. **State Requirements.** The Governor's Representative will coordinate with fisheries and wildlife departments to review each project's DSR and determine if a hydraulic permit approval is required.

- e. Project Modifications. The applicant does the work and if a time extension, scope, or fiscal modification is required, the applicant makes a request to the Governor's Representative for consideration.
- f. Project Closure. When the work has been completed, the applicant submits a Statement of Documentation to the Governor's Representative. The Governor's Representative determines whether or not final inspections need to be conducted based on program guidelines. Projects will be audited as part of the Single Audit Act by the State Auditors Office. Once all the program requirements have been met and final payment made, the Governor's Representative will send a close-out letter to the applicant.

When the federal audit or review is completed, the FEMA Regional Office forwards the reimbursement request to their National Office. The FEMA National Office forwards the final payment through the state's EMD, and closes out the project application.

## 33.9 Appendixes

[33.91 Local Agency Proclamation](#)

[33.92 Governor's Proclamation](#)

**I** [33.93 Local Agency Damage Inspection Report](#)

## Forms

[Forest Highway System Map](#)



## SAMPLE

## LOCAL AGENCY PROCLAMATION

Date \_\_\_\_\_

WHEREAS, the \_\_\_\_\_ County Department of Community Development/ Division of Emergency Management has reported to the Board of County Commissioners, that beginning on \_\_\_\_\_, 19\_\_\_\_, unusual weather conditions, consisting of heavy snowfall followed by rain, have caused a disaster by creating extensive flooding in parts of \_\_\_\_\_ County; and

WHEREAS, extensive damage has occurred and is still occurring to county roads and bridges, private roads, homes, businesses, and farmland; and

WHEREAS, persons and property are and will be damaged unless further efforts are taken to reduce the threat to life and property; and

WHEREAS, there is a present emergency which necessitates activation of the \_\_\_\_\_ County Disaster Preparedness Plan and utilization of emergency powers granted pursuant to RCW 36.40.180 and RCW 38.52.070(2), therefore

BE IT RESOLVED BY THE BOARD OF \_\_\_\_\_ COUNTY COMMISSIONERS:

SECTION 1

It is hereby declared that there is an emergency due to the flooding conditions in \_\_\_\_\_ County. Therefore, designated departments are authorized to enter into contracts and incur obligations necessary to combat such disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster.

SECTION 2

Each designated department is authorized to exercise the powers vested under Section 1 of this resolution in the light of the urgency of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements).

Board of County Commissioners

\_\_\_\_\_ County, Washington

Chairperson, \_\_\_\_\_

Commissioner, \_\_\_\_\_

Commissioner, \_\_\_\_\_

Note: Mailed to all county newspapers on above date.

cc: Washington State Emergency Management, re. notification by phone  
Washington State Department of Transportation, Regional Highways and  
Local Programs Engineer



STATE OF WASHINGTON  
OFFICE OF THE GOVERNOR

P.O. Box 40002 • Olympia, Washington 98504-0002 • (206) 753-6780

PROCLAMATION BY THE GOVERNOR

WHEREAS, a severe storm causing extensive flooding due to high rain fall amounts and mountain snow melt began on March 18, 1997, threatening citizens and property of Washington State;

WHEREAS, severe flooding is causing extensive damage to public property, private property, and infrastructure in Grays Harbor, Jefferson, Kilsap, and Mason counties;

WHEREAS, the Washington State Military Department, following the state's Comprehensive Emergency Management Plan is coordinating resources to support local officials in alleviating the immediate social and economic impacts to people and property. The severity and magnitude of the destruction from flooding are beyond the capabilities of the affected political subdivisions;

NOW THEREFORE, I, GARY LOCKE, Governor of the state of Washington, as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby proclaim that a State of Emergency exists in Grays Harbor, Jefferson, Kilsap, and Mason counties and direct implementation of the Washington State Comprehensive Emergency Management Plan. State agencies and departments are directed to utilize state resources and to do everything possible to assist affected political subdivisions in an effort to cope with the emergency. I also hereby order into active service the State of Washington National Guard, or such part thereof as may be necessary in the opinion of the Adjutant General to perform such duties as directed by competent authority. Additionally, the Washington State Military Department, Emergency Management Division is instructed to coordinate all disaster-related assistance to the affected areas.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this nineteenth day of March, A.D., nineteen hundred and ninety-seven.

  
Governor of Washington

BY THE GOVERNOR

  
Secretary of State





Washington State  
Department of Transportation

## Local Agency Damage Inspection Report - FHWA Emergency Relief

Applicant	County(s)	FHWA Disaster No.
Location of Damage (Name of Road or Street)	Milepost From _____ To _____	Inspection Date
Description of Damage (Include Bridge Number(s) if Applicable)		Federal-Aid Route
		Local /State Project No(s).

### Cost Estimate (Including Preliminary and Construction Engineering)

Temporary/Emergency Repair and Incidental Permanent Restoration work are eligible for 100% Federal participation until

<b>Temporary/Emergency Repair</b> (Work required to restore essential travel and protect the remaining facility from immediate threat.)		Temp./Emerg. Repair
Method of Work: <input type="checkbox"/> Agency Forces <input type="checkbox"/> Contract		
<b>Total Temporary Repair</b> \$		
<b>Incidental Permanent Restoration</b> (That portion of the permanent work which has been determined to be more economical to be constructed along with the Temporary/Emergency work.)		Incid. Perm. Restoration
Method of Work: <input type="checkbox"/> Agency Forces <input type="checkbox"/> Contract		
<b>Total Incidental Perm.</b> \$		
<b>Permanent Restoration</b> (This work is eligible for Federal participation at the standard matching ratio. This work <b>must</b> receive <b>additional FHWA authorization before advertisement.</b> ) Describe any proposed betterments and their eligibility.		Permanent Restoration
Preliminary Engineering _____ Right of Way _____ Construction _____		
Method of Work: <input type="checkbox"/> Agency Forces <input type="checkbox"/> Contract		
<b>Total Perm. Restoration</b> \$		
NEPA Environmental Classification <input type="checkbox"/> Categorical Exclusion <input type="checkbox"/> EA/EIS	<b>Total Estimated Cost</b> \$	
Recommendation <input type="checkbox"/> Eligible <input type="checkbox"/> Ineligible	FHWA Engineer	Date
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No	State Representative	Date
Concurrence <input type="checkbox"/> Yes <input type="checkbox"/> No	Local Agency Representative	Date

DOT Form 140-300 EF  
10/97





